

**EXHIBIT 3**

our ref JJS/DJM/22137/12  
 your ref 2007 Folio 1566  
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 e-mail Andrew.Simpson@blplaw.com

Commercial Court Registry  
 The Royal Courts of Justice  
 Strand  
 London  
 WC2A 2LL

18 March 2008

**COPY**

Dear Sirs

**Cavell USA Inc (1) & Ken Randall (2) v Seaton Insurance Company (1) & Stonewall Insurance Company (2)  
 2007 Folio 1566**

We act for the Claimants in the above matter.

We enclose a witness statement of Jonathan Jacob Sacher attaching a draft application seeking an expedited trial of a preliminary issue.

Due to Mr Justice Field's Order of 4 March 2008, we are unable to file this application at the present time. However, Mr Sacher refers to this application in his witness statement in support of the Claimants' application dated 11 March 2008 to set aside Mr Justice Field's Order.

We believe that the court ought to consider the attached application as soon as the stay is lifted. Therefore, we ask that you please place a copy of this application on the court file so that it is before the Judge in advance of the hearing to set aside Mr Justice Field's Order listed for 11 April 2008.

#### **Exhibits to witness statement**

We are aware that paragraph 73 of the Report and Recommendations of the Commercial Court Long Trials Working Parties suggests that the practice of producing exhibits to accompany witness statements should be discontinued. Instead, the Report suggests that witness statements should refer to the location of documents in the disclosure.

Disclosure has not yet taken place in this action and, therefore, we are unable to adopt this method of producing documents. Further, as there has not yet been a Case Management Conference, we have been unable to obtain any directions from the court as to how they would prefer witness statements to be produced.

Therefore, for the purposes of the applications currently before the court, we have produced exhibits to the witness statements.

Yours faithfully

**Berwin Leighton Paisner LLP**

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to Commercial Court Registry  
date 18 March 2008  
page 2

cc Cadwalader

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